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DAMON R. TALLEY

ATTORNEY AT LAW

March 17, 2006

RECEIVED  
MAR 21 2006  
PUBLIC SERVICE  
COMMISSION

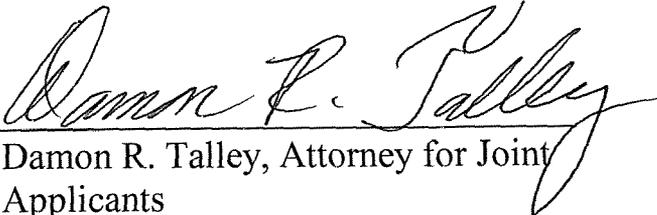
Ms. Beth O'Donnell  
Executive Director  
Public Service Commission  
PO Box 615  
Frankfort, KY 40602

RE: Case No. 2005-00433  
Transfer Application  
Proposed Transfer of Stock from  
Nuon Global Solutions USA BV  
to Hydro Star, LLC

Dear Ms. O'Donnell:

Enclosed for filing are the original and ten (10) copies of the Joint Applicants' Motion for a Rehearing.

Yours truly,  
DAMON R. TALLEY, P.S.C.

  
Damon R. Talley, Attorney for Joint  
Applicants

DRT:ms

Enclosures

cc: David Spenard, Attorney General's Office

COMMONWEALTH OF KENTUCKY

BEFORE THE PUBLIC SERVICE COMMISSION

RECEIVED

MAR 21 2006

PUBLIC SERVICE COMMISSION

IN THE MATTER OF:

THE JOINT APPLICATION OF )  
NUON GLOBAL SOLUTIONS USA, BV, )  
NUON GLOBAL SOLUTIONS USA, INC., )  
AIG HIGHSTAR CAPITAL II, LP, )  
HYDRO STAR, LLC, UTILITIES, INC. )  
AND WATER SERVICE CORPORATION )  
OF KENTUCKY FOR APPROVAL OF AN )  
INDIRECT CHANGE IN CONTROL OF A )  
CERTAIN KENTUCKY UTILITY PURSUANT )  
TO THE PROVISIONS OF KRS 278.020 (5) )  
AND (6) AND 807 KAR 5:001 (8) )

CASE No. 2005-00433

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**MOTION OF JOINT APPLICANTS**  
**FOR REHEARING**

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Come the Joint Applicants, Nuon Global Solutions USA, B.V. (“Nuon BV”), Nuon Global Solutions USA, Inc. (“Nuon USA”), AIG Highstar Capital II LP (“Highstar”), Hydro Star, LLC (“Hydro Star”), Utilities, Inc. (“Utilities”) and Water Service Corporation Of Kentucky (“Water Service”), (the “Joint Applicants”), by counsel, pursuant to KRS 278.400 and all other applicable laws, and move the Commission for a Rehearing. In the alternative, the Joint Applicants move the Commission to modify its March 8, 2006 Order approving the proposed

transfer by removing the requirement that Highstar accept certain conditions imposed upon it by the Order. For cause, the Joint Applicants state as follows:

1. On March 8, 2006, the Commission issued an Order approving the proposed transfer of control of Water Service.

2. On March 9, 2006, the Joint Applicants filed a motion for the Commission to withdraw its March 8, 2006 Order and issue a new or substitute Order which omits the monetary information which the Joint Applicants consider confidential.<sup>1</sup> This motion is still pending.

3. Because of the uncertainty of when the Commission will rule on the March 9, 2006 motion; whether the Commission will issue a new Order and seal the March 8, 2006 Order; and whether the substitute Order will be entered nunc pro tunc; the Joint Applicants deem it prudent to file this motion as a supplement to its March 9, 2006 motion.

4. In addition to the relief sought in their March 9, 2006 motion, the Joint Applicants seek to have the Commission's March 8, 2006 Order modified so Highstar will not be subject to the notification requirements and other commitments contained in Ordering Paragraphs 9 and 10 and Paragraphs 6 and 8 of Appendix A to the March 8, 2006 Order. In particular, the Joint Applicants request the Order be modified as follows:

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<sup>1</sup> The March 9, 2006 Motion was not actually received and filed by the Commission until March 13, 2006.

- A. Remove “Highstar” from Ordering Paragraph 9 on page 7 of the Order;
- B. Remove “Highstar” from Ordering Paragraph 10 on page 7 of the Order;
- C. Remove “Highstar” from Paragraph 6 of Appendix A to the Order; and
- D. Remove “Highstar” from Paragraph 8 of Appendix A to the Order.

5. The conditions and commitments contained in the portions of the Order referred to above are almost identical to those contained in Appendix A to question 40 of Commission Staff’s First Data Request in Case No. 2005-00323.<sup>2</sup>

6. Highstar has consistently stated throughout these proceedings that it should not be required to make these commitments. This position was first stated at the Informal Conference held on September 6, 2005. It was reconfirmed in the Response of the Joint Applicants to the First Data Request of Commission Staff in Case No. 2005-00323.<sup>3</sup>

7. Hydro Star, not Highstar, will govern and control Utilities, which is the parent of Water Service. Therefore, it is more appropriate for Hydro Star to make the commitments set forth in the Commission’s March 8, 2006 Order. Hydro

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<sup>2</sup> The entire record in Case No. 2005-00323 has been incorporated into the record of Case No. 2005-00433.

<sup>3</sup> See response to Question 40 and Appendix A to Question 40 contained in the Response of the Joint Applicants to the First Data Request of Commission Staff in Case No. 2005-00323 which was filed on October 10, 2005.

Star, Utilities and Water Service have all committed to these conditions<sup>4</sup> and will be filing an acknowledgement as required by the Commission's Order.

8. Notifying the Commission of any acquisition of a regulated or non-regulated business representing 5 percent or more of Highstar's market capitalization may, on the surface, appear to be only a minor inconvenience. In reality, however, this requirement will have a significant impact on Highstar and its investors. It will also result in the release of confidential information. Highstar is a private, limited partnership. It is not a publicly owned or traded company. Its Financial Statements are not publicly disclosed. Highstar buys and sells businesses on a regular basis. Oftentimes, its investment or ownership of a particular business entity is never publicly disclosed. This notification requirement will have a chilling effect on Highstar's business activities and its ability to attract investors. If Highstar is required to publicly disclose to the Commission each significant new investment or acquisition, it will be forced to change its business plan and investment strategy. The mere knowledge that a particular business acquisition will be publicly disclosed may cause the investors and partners of Highstar to forego an otherwise attractive business opportunity.

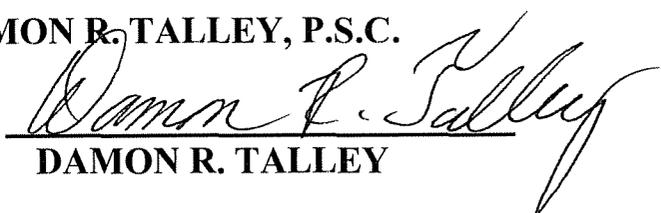
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<sup>4</sup> Id.

WHEREFORE, the Joint Applicants respectfully request the Commission to grant the relief herein requested; to grant the relief sought in their March 9, 2006 motion; to grant the relief sought in their March 14, 2006 Petition for Confidentiality; and to grant all other appropriate and proper relief.

Respectfully submitted this 17<sup>th</sup> day of March, 2006.

**DAMON R. TALLEY, P.S.C.**

BY: 

**DAMON R. TALLEY**

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**COUNSEL FOR NUON BV, NUON USA,**

**HIGHSTAR, HYDRO STAR,**

**UTILITIES, INC. AND WATER**

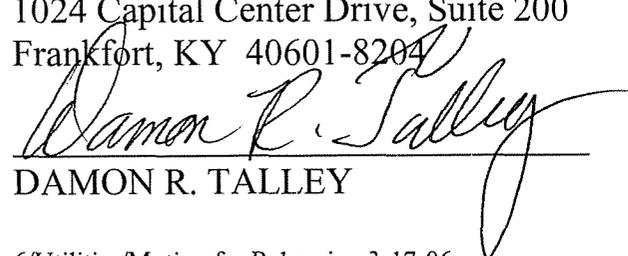
**SERVICE**

**[drtalley@alltel.net](mailto:drtalley@alltel.net)**

**CERTIFICATE OF SERVICE**

This is to certify that a true copy of the foregoing pleading was served by first class U.S. Mail, postage prepaid this 17<sup>th</sup> day of March, 2006 to the following:

Honorable David E. Spenard  
Assistant Attorney General  
1024 Capital Center Drive, Suite 200  
Frankfort, KY 40601-8204

  
DAMON R. TALLEY

6/Utilities/Motion for Rehearing 3-17-06